IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 28TH NOVEMBER 2007 / 7TH AGRAHAYANA 1929

Bail Appl..No. 7177 of 2007()

CRIME NO.338/07 OF BALARAMAPURAM POLICE STATION

: PETITIONER/IST ACCUSED

SUNOD,S/O.SUKU,
CHIRATHALAVILAKATHU VEEDU
PARAYARAKUNNU, KATTACHALKUZHI P.O.,
BALARAMAPURAM, THIRUVANANTHAPURAM.

BY ADV. SRI.G.SUDHEER

RESPONDENTS: COMPLAINANT

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA
ERNAKULAM.

BY PUBLIC PROSECUTOR SHRI JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 28/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7177 OF 2007

Dated this the 28th day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is the first accused in a crime registered for offences punishable, inter alia, under section 27 of the Arms Act and section 324 read with 149 IPC. Altogether 9 persons have by now been arrayed as accused. Accused Nos.1 to 3 – the petitioner is the first accused, are named in the FIR. The crux of the allegations is that on account of prior animosity, the de facto complainant was attacked by the group of miscreants including the petitioner herein with dangerous weapons like iron rods and sword sticks. The alleged incident took place on 5.9.07. The crime was registered on 6.9.07. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. He may be saved of the trauma of incarceration, submits the learned counsel for the petitioner.

3. The learned Public Prosecutor opposes the application. He submits that there are no circumstances whatsoever which can justify or warrant the invocation of the jurisdiction under section 438 Cr.P.C.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioner must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

5. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

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